IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29/09/2003

CORAM

THE HONOURABLE MR.JUSTICE N.V.BALASUBRAMANIAN

W.P.No.13304 of 2003
and
W.P.M.P.No.16715 of 2003

Dr.S.Shanthi ... Petitioner

-Vs-

1. The Director of Medical Education,
Kilpauk, Chennai 600 010

2. The Secretary,
Selection Committee,
162, Periyar E.V.R. High Road,
Chennai 600 010 .. Respondents

Writ petition filed under Article 226 of the Constitution of India for the issue of a writ of Certiorari as stated therein.

For petitioner : Mr.M.Ravi

For respondents : Mr.V.R.Rajasekaran, Spl.G.P.(Edn.)

:ORDER

The petitioner has approached this Court challenging clause-18 as found in the Prospectus issued by the Selection Committee, Directorate of Medical Education, Chennai for Post Graduate Degree/Diploma/5 Year M.Ch.,(Neuro Surgery) Courses for the academic year 2003-2004 to quash the limited prohibition contained in the said clause rendering the candidates who have already acquired a postgraduate degree in any discipline ineligible to apply for any postgraduate diploma/degree courses.

2. Though the writ petition has been filed with the prayer to quash the restriction contained in clause-18 of the prospectus, at the time of hearing of the writ petition, learned counsel for the petitioner fairly submitted that though the prayer in the petition is to quash the clause, the petitioner claims the benefit provided in the exception clause of clause-18 of the prospectus and on that basis, the petitioner is eligible to apply for the postgraduate medical courses.

3. The brief facts are that the petitioner has acquired P.G. Degree qualification in General Surgery with basic M.B.B.S. Degree qualification and she is an inservice candidate and she has applied for admission to P.G. Diploma in Gynaecology and Obstetrics (D.G.O.) and according to her, the acquisition of a diploma in D.G.O. is a prerequisite for her promotion as a Reader and therefore under sub-clause (b) of clause-18 of the prospectus, she is eligible to apply for the said diploma course.

4. It is relevant to mention here that clause-17 of the prospectus for admission to Postgraduate medical courses for the previous academic year 2002-2003 is almost on the similar terms found in clause-18 of the prospectus for the current year 2003-2004 and the said clause-1 7 stood as under:-
"17. Candidates who have already acquired a Postgraduate Degree in any one discipline are not eligible to apply for any Postgraduate Diploma/Degree/Five Year M.Ch.(Neuro-Surgery) courses."

The clause-17 of the prospectus for the year 2002-2003 placed an embargo on the candidates who have already acquired postgraduate degree to apply for any postgraduate degree or diploma course. The said clause was challenged as unconstitutional before this Court and Mr.E. Padmanabhan,J. has considered the validity of the clause-17 in Dr.V. GEETHA v. THE STATE OF TAMIL NADU & OTHERS (2003 WRIT L.R. 79) and the learned Judge, after considering several decisions of this Court and also the decisions of the Supreme Court, upheld the validity of the clause-17. Learned Judge also held that considering the limited number of seats in various professional colleges, the Government has the power to frame a scheme on reasonable terms to restrict the admission and distribute the seats equitably to those who long for admission.

5. In so far as clause-18 of the prospectus for the academic year 2 003-2004 is concerned, the ratio laid down by Mr.E.Padmanabhan,J. in Dr.V.Geetha's case would squarely apply and I do not find any reason at all to take a different view from the considered view of the learned Judge. However, in so far as the clause-18 for the academic year 2003-2004 is concerned, the clause contains two exceptions to the main clause and the clause as a whole reads as under:-
" 18. The candidates who have already acquired a Post Graduate Degree in any discipline are not eligible to apply for any Post Graduate Diploma/Degree Courses except:-
a. The Medical Officers or Health Officers employed in Public Health Department are eligible to apply for Diploma in Public Health course only.
b. Service candidates are eligible for applying for Diploma courses where acquiring Diploma is a prerequisite for their promotion."

6. In so far as the first exception, namely, sub-clause(a) of clause-18 is concerned, it applies to Medical Officers or Health Officers employed in Public Health Department and they are empowered to apply for P.G. diploma in Public Health course only. The petitioner is not entitled to claim the benefit under sub-clause (a), but she claims the benefit under sub-clause (b) on the ground that she is an inservice candidate and she is eligible to apply for Postgraduate diploma course in D.G.O. as the acquisition of diploma

in D.G.O. is a prerequisite for her promotion as a Reader in Obstetrics and Gynaecology.

7. Learned Special Government Pleader (Education) has produced before this Court the relevant provisions of the Tamil Nadu Medical Service Special Rules and the class-X of the said Rules deals with the cadre of Assistant surgeons and under category-9 of class-1, the posts of Clinical Readers - Readers in Medicine are dealt with. In so far as Reader in Obstetrics and Gynaecology is concerned, the Annexure to the Rules provides for qualification for promotion and according to the said rule, the person must have obtained the degree of M.D. in Obstetrics or M.S. in Gynaecology of the University of Madras. Though learned counsel for the petitioner submitted that there are separate rules available, in spite of opportunity given, he has not produced any such Rules, nor he claims that the petitioner is claiming promotion as a Reader in some other subject. Therefore, a fair reading of the Tamil Nadu Medical Service Special Rules shows that for promotion as a Reader in Obstetrics and Gynaecology, the necessary qualification is M.D. in Obstetrics or M.S. in Gynaecology and the acquisition of a diploma in D.G.O. is not a prerequisite qualification for promotion to the post of Reader in Gynaecology and Obstetrics. It is evident that the case of the petitioner does not fall within the exception found in sub-clause (b) of clause-18 of the prospectus and hence, the petitioner is not eligible to seek admission in another postgraduate degree or diploma under the clause-18 of the prospectus. The respondents are therefore justified in not considering the case of the petitioner for admission to P.G. Medical courses for the academic year 2003-2004. I do not find any merit in the petition. Accordingly, the petition fails and the same is dismissed. Rule Nisi is discharged. However, in the circumstances, there will be no order as to costs. Connected WPMP. is closed.

Index: Yes
Website: Yes

na.

To

1. The Director of Medical Education,
Kilpauk, Chennai 600 010

2. The Secretary,
Selection Committee,
162, Periyar E.V.R. High Road,
Chennai 600 010.